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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,862	02/13/2002	Richard J. Harrison	RJH -CIP 2	9844
41059	7590	02/14/2005	EXAMINER	
RICHARD J. HARRISON 8 SPRING MEADOW LANE HOCKESSIN, DE 19707			GROSZ, ALEXANDER	
		ART UNIT		PAPER NUMBER
		3673		

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/075,862	Applicant(s) HARRISON ET AL.
Examiner Alexander Grosz	Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THIRTY DAYS MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11/3/04
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 31-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 31-58 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date 010405
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Upon reconsideration, and a conversation with Mr. Harrison on 2/4/05, the restriction requirement or 5/11/04 is withdrawn, and the following restriction requirement is set forth.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 31-55, drawn to cribs, classified in class 5, subclass 99.1.
- II. Claim 56, drawn to a method for preventing crib tipping, classified in class 5, subclass 1.
- III. Claims 57, 58 drawn to a method of using a juvenile bed on an adult bed, classified in class 5, subclass 93.2.

The inventions are distinct, each from the other because:

Inventions I and II or III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be sued in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the processes of Groups II and III can be implemented with cribs other than the specific cribs of claims 31-55.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

If applicant elects the cribs of Group I, then the following election of species applies.

This application contains claims directed to the following patentably distinct species of the claimed invention: The species of figure 27, and the species of figure 28.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Mr. Harrison on 2/4/04 to request an oral election to the above restriction requirement, but did not result in an election being made.

Great difficulty was encountered in understanding claims 31-58 as presented in the amendment dated 1/3/04.

In response to this action applicant is urged to identify each and every element of the claims with reference to the drawings, with numerals in parentheses. Such numerals will aid in more easily "following" the claims and will help in avoiding "mistakes" but will not in any way limit the scopes of the claims.

Applicants should also clearly identify which figures illustrate various claims.

The substitute specification filed 6/3/04 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because:

1. the statement as to a lack of new matter under 37 CFR 1.125(b) is missing--;
2. a marked-up copy of the substitute specification has not been supplied (in addition to the clean copy)--;

and a clean copy of the substitute specification has not been supplied (in addition to the marked-up copy).

The drawings filed on 6/3/04 were entered.

In the specification filed on 2/13/02:

On page 1, line 4, after "2000", and on page 8, line 13, after "2000", -now US patent number 6,428,033- must be inserted, and in line 5, after "2001",

~~Now~~ US patent number 6,776,433 must be inserted.

On page 23, lines 24, 27, 28 and page 24, line 2, and page 25, line 27, and page 26, line 1, "71" must be changed to -171-.

On page 24, lines 27, "355A" must be changed to -355B- and in line 30, "355B" must be changed to -355A-.

On page 25, last line, "201" must be changed to -200-.

On page 26, line 3, "desire" must be changed to -desired-; in line 20, "60A, 60B, 60C and 60D" must be changed to -61A, 61B, 61C, and 61D-.

The structure of the SLE is not understood. In claim 31b it is stated that it is "mounted within the interior cavity", while in figure 27 it is shown as being on top of the frame. How is the SLE "offset" from the upper brackets? What does "offset" mean?

Alternative language such as "or" as used in claim 1, lines 15, and "if present" as used in claim 37 (e)(i) is objected to as confusing.

In claim 41v. and 47v. "leash" must be changed to -least-.

From page 24, lines 4, 5 it is not clear how the sidewalls act as an ACLM.

Applicant must illustrate all the elements of a claim in one figure to which the claim is drawn.

Applicant is strongly urged to retain the services of a registered patent attorney or agent, as it is very difficult to understand what exactly is the claimed structure.

If applicant does not get an attorney or agent, applicant is strongly urged to present fewer claims, drawn to a specific crib that is clearly illustrated, with all the elements of the claim(s) clearly identified with numerals from the figures.

It is noted that 5,641,387; 6,578,311 and 5,845,349 cited on PTO 1449 dated 10/08/03 are incorrect.

Any inquiry concerning this communication should be directed to Alex Grosz at telephone number 703-308-2498.

ALEXANDER GROSZ
PRIMARY EXAMINER

Grosz/vs
February 8, 2005